UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,068	08/01/2003	Jeffrey Robert Crane	23050.NP	4227

20551 7590 03/09/2007 THORPE NORTH & WESTERN, LLP. 8180 SOUTH 700 EAST, SUITE 200 SANDY, UT 84070	**EXAMINER** KANG, PAUL H

ART UNIT	PAPER NUMBER
2144	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>01 November 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-36</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-36</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>01 August 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>4/2/04;12/8/03;11/24/03</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

2.   **Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kautz et al.,**

ReferralWeb: Combining Social Networks and Collaborative Filtering, Communications of

the ACM, vol. 40 no. 3, March 1997 (hereinafter referred to as Kautz).

3.   As to claim 1, Kautz teaches a method of providing an ally association comprising:

providing a profile within a computer network, said profile comprising a profile subject

corresponding to and representing a person, service, or thing of interest (Kautz, page 2, line 13 –

page 3, line 6);

associating an ally with said profile subject featured in said profile (Kautz, page 1, lines

13-33 and page 2, lines 14-29); and

allowing said ally to perform an association-related function (Kautz, page 2, line 37 –

page 3, line 6).

4.   Claims 2-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kautz

in view of Heller et al., US Pat. App. No. 2003/0216962 A1.

5.   As to claims 2 and 4, Kautz teaches the invention substantially as claimed. However,

Kautz does not explicitly teach securing initial or periodic compensation from a proprietor of

said profile or from said ally. In the same field of endeavor, Heller teaches a member rating

system for an online community wherein compensation from users is secured (Heller, ¶¶ 0058,

0084). It would have been obvious to one having ordinary skill in the art at the time the invention

was made to have incorporated the securing of fees as taught by Heller into the system of Kautz

since it is desirable to collect revenue for use of the system.

6.   As to claim 3, Kautz-Heller teaches the method comprising providing scheduled

incentives to said proprietor of said profile to obtain one or more allies, thus increasing and

propagating the number of said profiles and said allies within said computer network (Heller, ¶¶

0084, 0088).

7.   As to claim 5, Kautz-Heller teaches the method wherein said ally facilitates creation of a

reference hierarchy within said computer network (Kautz, page 3, lines 7-14).

8.   As to claim 6, Kautz-Heller teaches the method further comprising providing a profile of

said ally, also within said computer network (Kautz, page 2, lines 14-36).

9.   As to claim 7, Kautz-Heller teaches the method further comprising wherein said

computer network comprises a pre-defined online.community of users (Kautz, page 2, lines 14-

36).

10.   As to claim 8, Kautz-Heller teaches the method wherein said ally is a member of said

online community (registered users; Kautz, page 2, lines 14-36 and Heller, ¶¶ 0051-0052).

11. .   As to claim 9, Kautz-Heller teaches the method wherein said ally is a non-member of said

online community (e.g. organizational charts for university departments; Kautz, page 2, lines 14-

36). ·

12.   As to claim 10, Kautz-Heller teaches the method wherein said pre-defined online

community is selected from the group consisting of a professional locator and referral

community, an information dissemination community, a business company community, a

community of service providers, an online shopping store and ·any other similar online

community comprising at least one profile of a person, service, or thing of interest, wherein

someone may utilize said ally associates associated with said profile to gain access to and

learn about said person, service, or thing featured in said profile (Kautz, page 2, lines 14-36 and

Heller, ¶ 0089).

        However, Kautz-Heller does not explicitly teach an online dating community comprised

of a plurality of user profiles and an online auction community. Examiner takes Official

Notice (see MPEP § 2144.03) that online dating and auction communities implementing

member ally, referral was well known in the art at the time the invention was made. Dutta et al.,

US Pat. App. No. 2003/0004855 A1 and Shostack et al., US Pat. App. No. 2004/0249811 A1,

cited as relevant but not relied upon, exemplifies the state of the art.

The Applicant is entitled to traverse any/all official notice taken in this action according

to MPEP § 2144.03, namely, "if applicant traverses such an assertion, the examiner should cite a

reference in support of his or her position". However, MPEP § 2144.03 further states "See also

In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial

notice must contain adequate information or argument to create on its face a reasonable doubt

regarding the circumstances justifying the judicial notice)." Specifically, In re Boon, 169 USPQ

231, 234 states "as we held in Ahlert, an applicant must be given the opportunity to challenge

either the correctness of the fact asserted or the notoriety or repute of the reference cited in

support of the assertion. We did not mean to imply by this statement that a bald challenge, with

nothing more, would be all that was needed". Further note that 37 CFR § 1.671(c)(3) states

"Judicial notice means official notice". Thus, a traversal by the Applicant that is merely "a bald

challenge, with nothing more" will be given very little weight.

13.   As to claim 11, Kautz-Heller teaches the method further comprising the step of

associating an ally with said profile of said ally (Kautz, page 2, lines 14-36 and Heller, ¶¶ 0051-

0053).

14.   As to claim 12, Kautz-Heller teaches the method wherein said ally is capable of

becoming associated with other allies, and so on, to create a reference hierarchy and organize,

build, and propagate said computer network (Kautz, page 2, lines 14-36).

15.   Claims 13-36 rejected under 35 U.S.C. 103(a) as being unpatentable over Kautz in

view of Heller, and further in view of Weinreich et al., US Pat. No. 6,175,831 B1.

16.   As to claim 13, Kautz-Heller teaches the invention substantially as claimed. However,

Kautz-Heller does not explicitly teach the method wherein said associating an ally with said

profile subject comprises associating said ally at the request of a proprietor of said profile. In the

same field of endeavor, Weinreich teaches a method and system for online networking system

wherein the users confirm or deny the sponsor relationships (Weinreich, col. 2, lines 35-53 and

col. 3, lines 4-16). It would have been obvious to one having ordinary skill in the art at the time

the invention was made to have incorporated the user control of associating an ally as taught by

Weinreich into the system of Kautz-Heller for the purpose of providing flexibility and freedom

of users to determine the members they wish to be associated with.

17.   As to claim 14, Kautz-Heller-Weinreich teaches the method wherein said associating an

ally with said profile subject comprises associating said ally at the request of said ally and

subsequent approval of a proprietor of said profile (Weinreich, col. 2, lines 35-53 and col. 3,

lines 4-16).

18.   As to claim 15, Kautz-Heller-Weinreich teaches the method wherein said associating an

ally with said profile subject comprises allowing a proprietor of said profile to unilaterally add

said ally (Weinreich, col. 2, lines 35-53 and col. 3, lines 4-16; Heller, ¶¶ 0052-0053).

19.   As to claim 16, Kautz-Heller-Weinreich teaches the method wherein said associating an

ally with said profile subject comprises allowing a proprietor to provide requestor

information to a group of users within a computer network and seek those individuals that meet

certain criteria and then selectively add these individuals as allies (Heller, ¶¶ 0052-0053).

20.   As to claim 17, Kautz-Heller-Weinreich teaches the method wherein said association-

related function is selected from a vouching and witnessing function, a referring function,

an introduction function, a schedule or event coordinating function, an ancestral function, a

liaison function, a promoting function, an advertising function, a personal assistant

function, an investigating function, an ally attracting function, an ally obtaining function, a

screening function, a sponsoring function, and others (Weinreich, col. 2, lines 35-53 and col. 3,

lines 4-16; Heller, ¶¶ 0052-0053).

21.   As to claim 18, Kautz-Heller-Weinreich teaches the method wherein said ally is of the

type selected from the group consisting of a member of a pre-defined community, a non-

member of a pre-defined community, a non-human ally, a non-user ally, an ancestral ally, a

group ally, an entity, and others (Kautz, page 2, line 37 – page 3, line 6; Heller, ¶¶ 0052-0053;

Weinreich, col. 2, line 35-col. 3, line 16).

22.   As to claim 19, Kautz-Heller-Weinreich teaches the method further comprising

providing incentives to said ally for becoming an ally of said profile subject, and for each

additional service as an ally, thus facilitating an ongoing ally association system (Heller, ¶¶

0084, 0087-0088).

23.   As to claim 20, Kautz-Heller-Weinreich teaches the method further comprising

implementing a network marketing concept for associating allies (Heller, ¶¶ 0087-0088).

24.   As to claim 21, Kautz-Heller-Weinreich teaches a method for organizing, building,

and propagating a computer network community comprising:

    providing a computer network (Kautz, page 2, line 37 – page 3, line 6);

    providing a profile within said computer network, said profile comprising a profile

subject corresponding to and representing a person, service, or thing of interest (Kautz, page

2, line 13 – page 3, line 6; Heller, ¶¶ 0052-0053; Weinreich, col. 18, lines 1-54);

    associating a first degree ally with said person, service, or thing of interest featured in

said profile (Kautz, page 1, lines 13-33 and page 2, lines 14-29; Heller, ¶¶ 0052-0053;

Weinreich, col. 20, line 41 – col. 21, line 34);

    associating a second degree ally with said person, service, or thing of interest featured in

said profile, said second degree ally being a first degree ally to said first degree ally of said

person, service, or thing of interest featured in said profile (Kautz, page 1, lines 13-33 and page

2, lines 14-29; Heller, ¶¶ 0052-0053; Weinreich, col. 20, line 41 – col. 21, line 34);

repeating each of said steps of associating to create a reference hierarchy of allies to the

nth degree within said computer network (Kautz, page 1, lines 13-33 and page 2, lines 14-29;

Weinreich, col. 20, line 41 – col. 21, line 34); and

allowing said allies to the nth degree to perform association-related functions with respect

to each other and said person, service, or thing of interest (Kautz, page 1, lines 13-33 and page 2,

line 37 – page 3, line 6; Weinreich, col. 20, line 41 – col. 21, line 34 and col. 21, line 38 – col.

22, line 24).

25.   As to claim 22, Kautz-Heller-Weinreich teaches the method wherein further comprising

providing a profile for each of said nth degree allies, with each ally being able to have allies

of their own that are associated with their profile (Kautz, page 1, lines 13-33 and page 2, line 37

– page 3, line 6; Weinreich, col. 20, line 41 – col. 21, line 34 and col. 21, line 38 – col. 22, line

24).

26.   As to claim 23, Kautz-Heller-Weinreich teaches a method for providing an ally

association, said method comprising the steps of:

obtaining and supporting an online profile within a pre-defined online community, said

profile corresponding to and representing a person, service, or thing of interest, said profile

authorized by a proprietor of said profile (Kautz, page 2, line 13 – page 3, line 6; Heller, ¶¶

0052-0053; Weinreich, col. 18, lines 1-54);

providing an ally association function to facilitate creation of a reference hierarchy and

system, wherein said ally association function allows said profiles to have and become

associated with at least one ally associate that performs at least one association-related function

(Kautz, page 1, lines 13-33 and page 2, line 37 – page 3, line 6; Weinreich, col. 20, line 41 – col.

21, line 34 and col. 21, line 38 – col. 22, line 24); and

      securing initial or periodic fees from said proprietor of said profile (Heller, ¶¶ 0058,

0084).

27.   As to claim 24, Kautz-Heller-Weinreich teaches the method further comprising providing

incentives to said proprietor and said ally (Heller, ¶¶ 0084, 0088).

28.   As to claim 25, Kautz-Heller-Weinreich teaches the method further comprising

implementing a network marketing concept for associating allies (Heller, ¶¶ 0087-0088).

29.   As to claim 26, Kautz-Heller-Weinreich teaches a method for increasing the exposure of

a profile within a computer network, said method comprising:

      providing a profile within a computer network, said profile comprising a profile subject

corresponding to and representing a person, service, or thing of interest (Kautz, page 2, line 13 –

page 3, line 6; Heller, ¶¶ 0052-0053; Weinreich, col. 18, lines 1-54);

      associating an ally with said profile subject (Kautz, page 1, lines 13-33 and page 2, line

37 – page 3, line 6; Heller, ¶¶ 0052-0053; Weinreich, col. 20, line 41 – col. 21, line 34 and col.

21, line 38 – col. 22, line 24);

      posting said ally in an ally profile on said profile (Kautz, page 1, lines 13-33 and page 2,

line 37 – page 3, line 6; Heller, ¶¶ 0052-0053; Weinreich, col. 18, lines 1-54); and

linking said profile to at least one other profile within said computer network (Kautz,

page 1, lines 13-33 and page 2, line 37 – page 3, line 6; Weinreich, col. 20, line 41 – col. 21, line

34 and col. 21, line 38 – col. 22, line 24).

30.   As to claim 27, Kautz-Heller-Weinreich teaches the method further comprising causing

said ally to perform one or more association-related functions (Kautz, page 2, line 37 – page 3,

line 6; Heller, ¶¶ 0052-0053; Weinreich, col. 20, line 41 – col. 21, line 34).

31.   As to claim 28, Kautz-Heller-Weinreich teaches the method for generating revenue

from a network-based business, said method comprising:

        providing a computer network (Kautz, page 2, line 37 – page 3, line 6; Heller, ¶ 0058);

        providing a profile within said computer network, said profile comprising a profile

subject (Kautz, page 1, lines 13-33 and page 2, line 37 – page 3, line 6; Heller, ¶¶ 0052-0053;

Weinreich, col. 18, lines 1-54);

        associating an ally with said profile subject, said ally identified in an ally profile on said

profile (Kautz, page 1, lines 13-33 and page 2, line 37 – page 3, line 6; Heller, ¶¶ 0052-0053;

Weinreich, col. 20, line 41 – col. 21, line 34 and col. 21, line 38 – col. 22, line 24);

        securing an initial and/or periodic fee from a proprietor of said profile (Heller, ¶¶ 0058,

0084).

32.   As to claims 29-32, Kautz-Heller-Weinreich teaches the method further comprising

providing incentives to said proprietor for any additional allies obtained, providing incentives to

users for becoming an ally, for obtaining one or more allies, and establishing a network

marketing function to propagate growth of said users of said computer network, said network

marketing function based upon an ally association function. (Heller, ¶¶ 0084, 0087-0088).

33.   As to claim 33, Kautz-Heller-Weinreich teaches a method for providing for the

establishment of relationships among users of a computer network, said method comprising:

providing a computer network (Kautz, page 2, line 37 – page 3, line 6; Heller, ¶ 0058);

providing a profile within said computer network, said profile comprising a profile

subject (Kautz, page 1, lines 13-33 and page 2, line 37 – page 3, line 6; Heller, ¶¶ 0052-0053;

Weinreich, col. 18, lines 1-54);

associating an ally with said profile subject, said ally identified in an ally profile on said

profile (Kautz, page 1, lines 13-33 and page 2, line 37 – page 3, line 6; Heller, ¶¶ 0052-0053;

Weinreich, col. 20, line 41 – col. 21, line 34 and col. 21, line 38 – col. 22, line 24);

allowing a user to access said computer network (Kautz, page 1, lines 13-33 and page 2,

line 37 – page 3, line 6; Heller, ¶¶ 0052-0053; Weinreich, col. 20, line 41 – col. 21, line 34 and

col. 21, line 38 – col. 22, line 24);

allowing said user to access said profile (Kautz, page 1, lines 13-33 and page 2, line 37 –

page 3, line 6; Heller, ¶¶ 0052-0053; Weinreich, col. 20, line 41 – col. 21, line 34 and col. 21,

line 38 – col. 22, line 24); and

allowing said user to initiate contact with said ally for the purpose of establishing a

relationship with said profile subject (Kautz, page 1, lines 13-33 and page 2, line 37 – page 3,

line 6; Heller, ¶¶ 0052-0053; Weinreich, col. 20, line 41 – col. 21, line 34 and col. 21, line 38 –
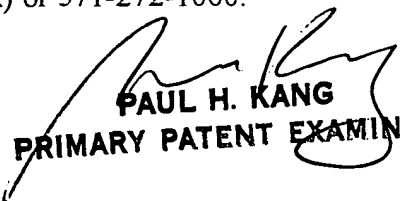
col. 22, line 24);.

34.   As to claim 34, Kautz-Heller-Weinreich teaches the method wherein said user comprises

an investigator, a proprietor of a profile, and an ally (Heller, ¶ 0069) .

Conclusion

35.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Paul H. Kang whose telephone number is (571) 272-3882. The

examiner can normally be reached on 9 hour flex. First Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, William Vaughn can be reached on (571) 272-3922. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

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like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PAUL H. KANG
PRIMARY PATENT EXAMINER